

**Division of Watershed Management Comments on WQ Classification  
Kennebec River Dredge Disposal Site- Phippsburg**

**Issue:**

Shoaling of the Kennebec River channel routinely occurs at Doubling Point, located downriver from BIW in Bath, ME and at the mouth of the Kennebec near Popham Beach. Historically (through permits issued by the MDEP) dredged material from Doubling Point, is taken to an in-river disposal site at Fiddlers Reach, a little further downstream. Dredged material from the mouth of the Kennebec is disposed of off shore at Jackknife Ledge. The Corps is again applying for permits to dredge the river at these two sites to remove sand waves that have shoaled the bottom of the Federal Channel. The Corps needs to complete this project by September 1, 2011 so that the Navy can take the latest destroyer built at BIW.

The statutory classification language that has been in place for this section of the Kennebec since 1990 splits the Kennebec River in half due to usage of the "town line formula" for describing classification assignments (**Map Figure 1\***). Marine waters of Phippsburg, within the coordinates specified, are on the west side of the river, bounded to the east by the Georgetown town line in the center of the channel. Board of Environmental Protection reclassification proposal documents from November 1, 1989 indicate that the proposal was intended to protect waters surrounding Popham Beach State Park (see below). This interpretation is supported by the clear intent of the SA designation for waters off of Reid State Park in Georgetown (38 MRSA Chapter 3 §469.5.A. Georgetown). The 2011 omnibus proposal does not constitute a "downgrade" of this section of the Kennebec. The omnibus bill section was introduced to correct an obvious error in the specificity of the coordinates.

**History**

The Water Quality Classification law (38 MRSA Chapter 3 §469) lists this section of the river as Class SA in Phippsburg. The coordinates in the statute only list an easterly and westerly boundary, although MDEP Board Proposal documents from 1989, at the time the upgrade was recommended by MDEP, specifically mention Popham Beach and "the beach to the south, owned by Bates College (Seawall Beach)" (i.e., Morse Mountain/Small Point). Text from the Nov. 1, 1990 Board proposal:

**Popham Beach area (Phippsburg)**

*Popham Beach is owned by the State of Maine and the beach to the south (Seawall Beach) is owned by Bates College and managed by the Nature Conservancy. Seawall Beach provides nesting for the endangered least tern. The nearby Heron Islands also provide seabird nesting sites. No discharges are known to exist. The Kennebec River may influence the quality of the water in this area. Class SA is recommended.*

*Comments: The Maine Chapter of the Nature Conservancy and Maine Audubon Society support the staff proposal. No other comments were made.*

**Text of the current law, passed in the 114<sup>th</sup> Maine Legislature- 1990:**

**§469. Classification of estuarine and marine waters**

**5. Sagadahoc County.**

**B. Phippsburg.**

(1) Tidal waters east of longitude 69°-50'-05" W. and west of longitude 69°-47'-00" W. - Class SA.

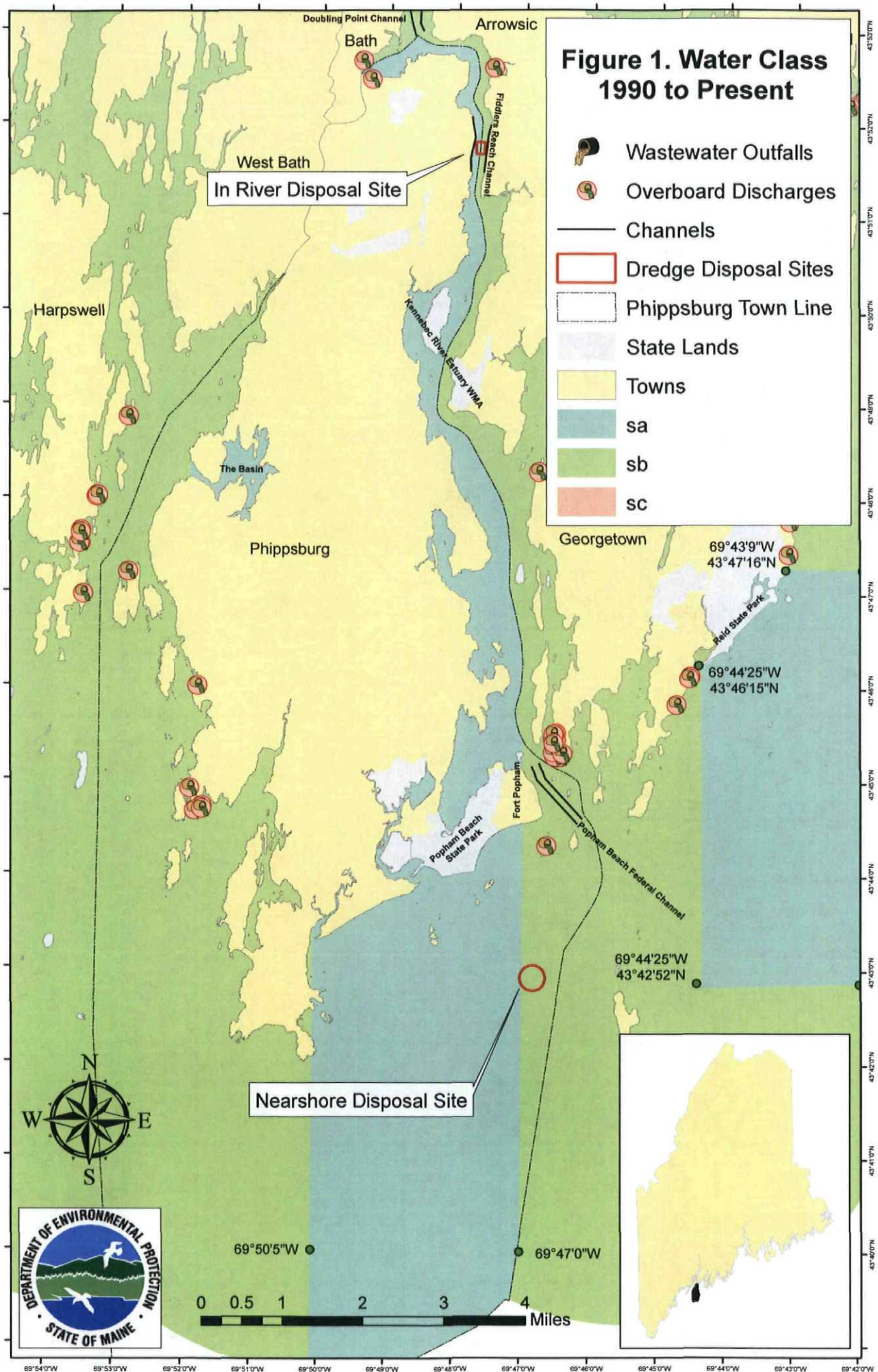
**Literal interpretation of the current law (Map Figure 1):**

- Tidal waters of the Kennebec River in Phippsburg
  - town-by-town classification formula in the statute
  - western side of the river only- the eastern side of the river is in Georgetown and Arrowsic and is default Class SB
- west of the southern half of Wood Island
  - (described by "west of longitude 69°-47'-00" W", off Popham Beach SP)
- and east of the Sprague River
  - described by "east of longitude 69°-50'-05" W "
- SA extends upriver to the Bath town line.

**Revisions Proposed in the Omnibus Bill**

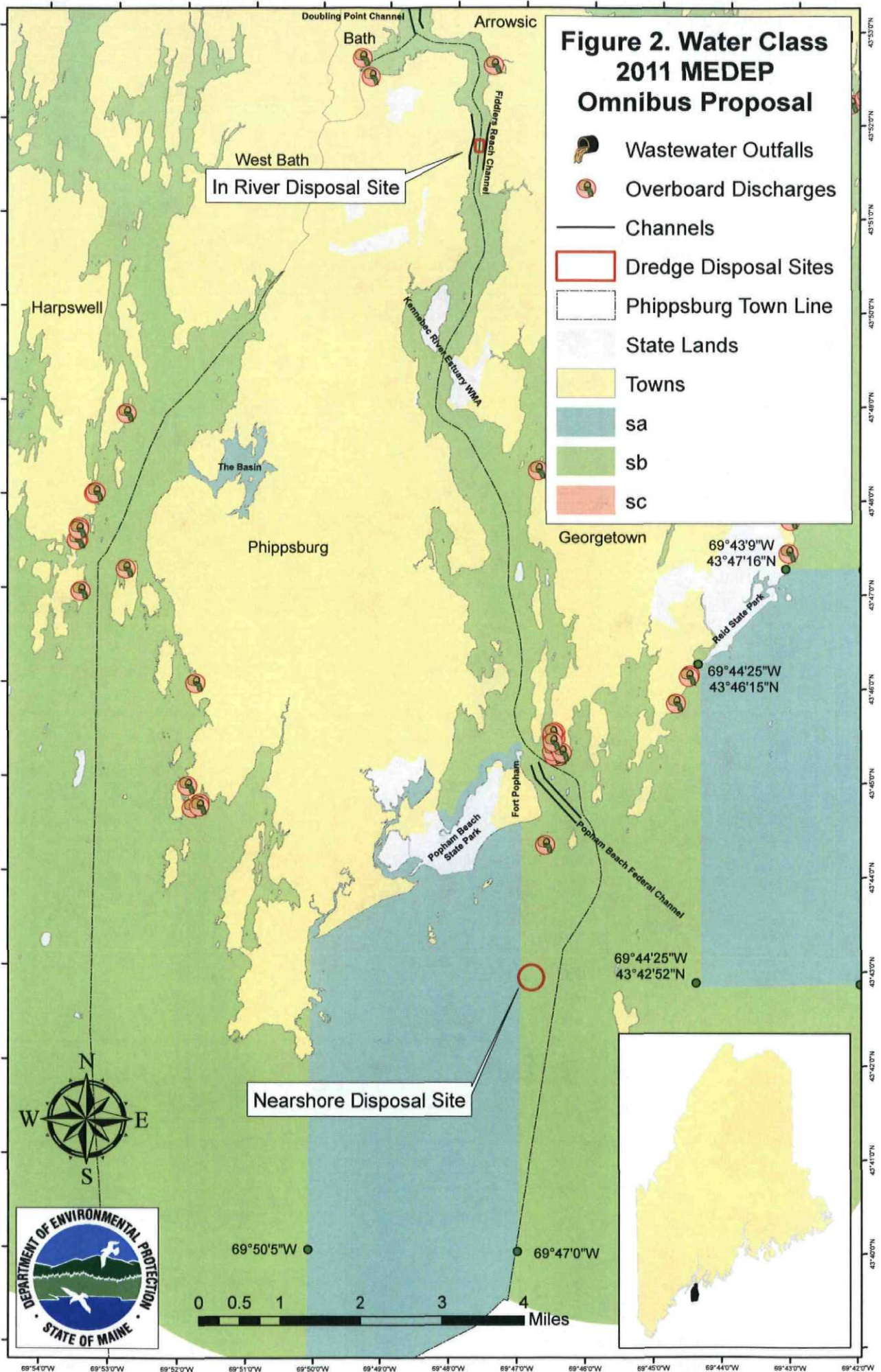
The MDEP 2011 Omnibus Bill proposal specifically described waters surrounding Popham Beach State Park, Small Point/Seawall Beach, and Fort Popham for designation as Class SA (Map Figure 2)

The Revisers Office version (Map Figure 3) of the omnibus bill eliminated the SA designation for waters around Fort Popham and the Popham Beach portion of Atkins Bay (the bay on the inland side of Popham Beach State Park).



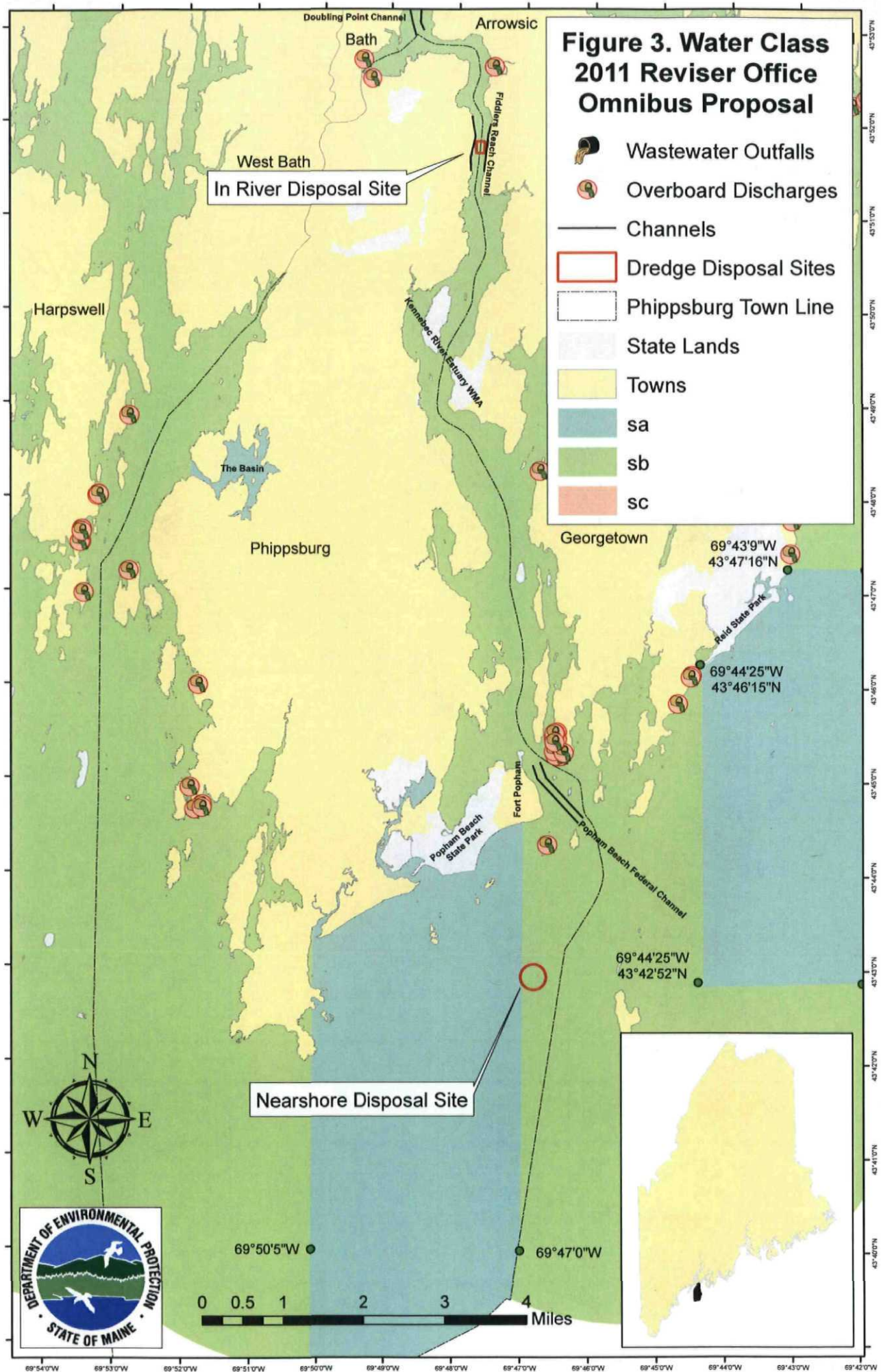


**Figure 2. Water Class  
2011 MEDEP  
Omnibus Proposal**

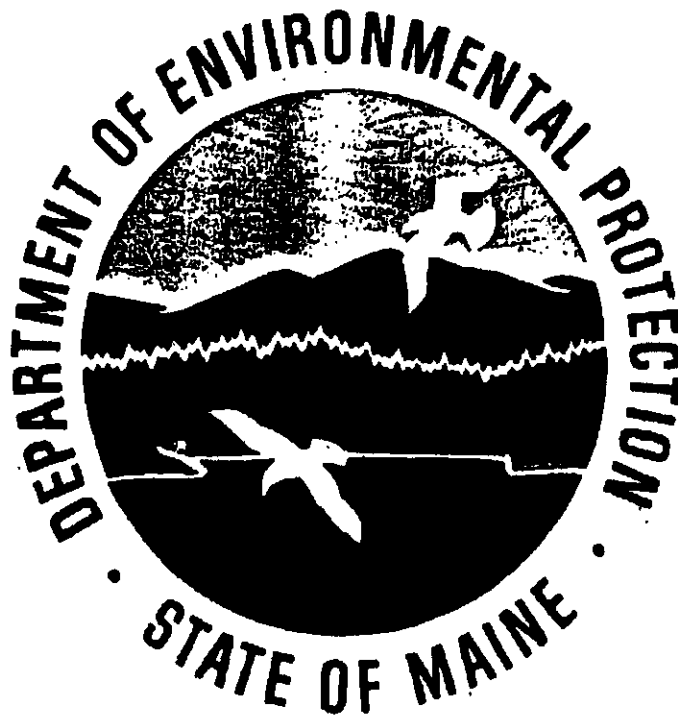




**Figure 3. Water Class  
2011 Reviser Office  
Omnibus Proposal**



**Staff Proposal  
for  
Reclassification of Surface Waters  
to the  
Board of Environmental Protection**



**Bureau of Water Quality  
Department of Environmental Protection**

**November 1, 1989**

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## INTRODUCTION

This document contains the Department of Environmental Protection's recommendations to the Board of Environmental Protection for reclassification of all surface waters of the state except the Androscoggin and Kennebec basins which have previously been completed. According to 38 MRSA, Section 464-2, the Board may make classification recommendations to the Legislature. Final adoption of any classification changes is the Legislature's authority. The Board's final recommendations will be presented as a bill to the 114th Legislature.

The Board conducted six public hearings state wide and also solicited comments from a variety of groups including town planning boards, conservation commissions, local Chambers of Commerce, trade organizations, wastewater discharge license holders, environmental interest groups, sportsmans clubs, state legislators, state and federal agencies, regional planning commissions and other identified interest groups. Response to the initial reclassification suggestions was considerable. There were 91 individuals who spoke at the public hearings and 634 pieces of correspondence were received (580 letters directed to the upgrade of one particular waterbody). Additionally, the staff has spent many hours in follow-up investigation of the information provided.

This document is presented in two parts. The first provides information and comments from the hearings record. For each basin, there is a presentation of known water quality. Following that is a comment section which presents a summary of comments for that basin and a staff recommendation where some controversy or question may exist. The second portion of the document includes a draft copy of legislation which would be presented to the Legislature including all changes the Board recommends.



### Mid-Coastal waters

The majority of estuarine and marine waters are classified SB. Data from 62 monitoring sites in the mid coast area indicate uniformly good water quality. Several upgrades are suggested as follows:

#### Popham Beach area (Phippsburg)

Popham Beach is owned by the State of Maine and the beach to the south (Seawall Beach) is owned by Bates College and managed by the Nature Conservancy. Seawall Beach provides nesting for the endangered least tern. The nearby Heron Islands also provide seabird nesting sites. No discharges are known to exist. The Kennebec River may influence the quality of the water in this area. Class SA is recommended.

Comments: The Maine Chapter of the Nature Conservancy and Maine Audubon Society support the staff proposal. No other comments were made.

#### Damariscove Island (Boothbay)

This is a National Historic Landmark managed by the Nature Conservancy. No discharges exist. Class SA is recommended.

Comments: The Maine Audubon Society supports the staff proposal. The only other comments received noted a typographical error (i.e. "east" should have been "west") in the staff proposal. The staff has corrected the error.

#### Reid State Park area (Georgetown)

A change is suggested in the language of the law to clarify the boundary of the Class SA waters. Water quality in the tidal pool portion of the park probably does not attain Class SA standards due to the density of swimmers. Also, the tidal gate at the mouth of the pool precludes a free-flowing habitat.

Comments: The Maine Audubon Society sent a letter supporting an upgrade; however, this area is already Class SA. The staff recommends the clarification of the boundary of the Class SA waters as proposed.

#### Sears Island (Searsport)

Monitoring indicates that areas around Sears Island presently attain Class SB on the east side therefore an upgrade is recommended. Other areas around the port facilities and Long Cove attain, at best, Class SC.

Comments: The Maine Audubon Society and the Maine Department of Transportation support the staff proposal. The only other comment was made at the hearing about the possible nonattainment of Class SC near Sears Island (in the Long Cove area).

### Eastern coastal waters

The majority of marine waters of Hancock and Washington Counties are classified SB and probably should remain that way. Limited water quality sampling has not detected any problems suggesting that downgrades are needed. Several areas listed below are suggested for upgrade to Class SA due to the high quality of the water, unique ecological resources and proximity to publicly held lands.

C. Rockland.

(1) Tidal waters lying westerly of a line running between the southernmost point of land on Jameson Point and the northernmost point of land on Battery Point - Class SC.

4. Lincoln County

A. Boothbay.

(1) Tidal waters lying south of the northernmost point of Damariscove Island and west of longitude  $69^{\circ}-36'-00''$  W.- Class SA.

4/5. Penobscot County

A. Hampden.

(1) Tidal waters lying southerly of a line extended in an east-west direction from the outlet of Reed Brook in the Village of Hampden Highlands - Class SC.

B. Orrington.

(1) Tidal waters lying southerly of a line extended in an east-west direction from the outlet of Reed Brook in the Village of Hampden Highlands - Class SC.

5/6. Sagadahoc County

A. Georgetown.

(1) Tidal waters located within a line beginning at a point on the shore located at latitude  $43^{\circ}-47'-16''$  N., longitude  $69^{\circ}-43'-09''$  W. and running due east to longitude  $69^{\circ}-42'-00''$  W.; thence running due south to latitude  $43^{\circ}-42'-52''$  N.; thence running due west to longitude  $69^{\circ}-44'-25''$  W.; thence running due north to a point on the shore located at latitude  $43^{\circ}-46'-15''$  N., longitude  $69^{\circ}-44'-25''$  W.; thence running northly along the shore to point of beginning - Class SA.

B. Phippsburg.

(1) Tidal waters east of longitude  $69^{\circ}-50'-05''$  W. and west of longitude  $69^{\circ}-47'-00''$  W.- Class SA.

6/7. Waldo County.

A. Frankfort.

(1) All tidal waters - Class SC.

B. Prospect.

(1) All tidal waters - Class SC.

C. Searsport.